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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA

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10 WARING PARK,

11 Plaintiff,

12 v.

13 UNITED STATES,

14 Defendant.

Case No. 3:14-cv-00554-MMD-WGC

ORDER ACCEPTING AND ADOPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE WILLIAM G. COBB

15 Before the Court is Magistrate Judge William G. Cobb's Report and
16 Recommendation ("R&R") (dkt. no. 4), regarding Plaintiff's Application to Proceed In
17 Forma Pauperis ("IFP") (dkt. no. 1) and pro se Complaint (dkt. no. 1-1). The Court
18 allowed Plaintiff to file any objections by April 30, 2015 (dkt. no. 4). No objections have
19 filed.

20 This Court "may accept, reject, or modify, in whole or in part, the findings or
21 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party
22 timely objects to a magistrate judge's report and recommendation, then the court is
23 required to "make a *de novo* determination of those portions of the [report and
24 recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails
25 to object, however, the court is not required to conduct "any review at all . . . of any issue
26 that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
27 Indeed, the Ninth Circuit has recognized that a district court is not required to review a
28 magistrate judge's report and recommendation where no objections have been filed. See

1 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard
 2 of review employed by the district court when reviewing a report and recommendation to
 3 which no objections were made); see also *Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
 4 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
 5 view that district courts are not required to review "any issue that is not the subject of an
 6 objection"). Thus, if there is no objection to a magistrate judge's recommendation, then
 7 the court may accept the recommendation without review. See, e.g., *Johnstone*, 263 F.
 8 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
 9 which no objection was filed).

10 Nevertheless, this Court finds it appropriate to engage in a *de novo* review in
 11 order to determine whether to adopt the R&R. The gist of Plaintiff's Complaint is that he
 12 applied for benefits with the Social Security Administration ("SSA") and has been
 13 informed that a decision has been made on his application although he would not be
 14 informed as to the nature of that decision. The R&R recommends dismissal of Plaintiff's
 15 claims with prejudice because Plaintiff cannot assert any constitutional violations based
 16 on these allegations. Upon review of the R&R and the record in this case, the Court
 17 determines that it is appropriate to adopt the R&R in full.

18 It is hereby ordered that the R&R (dkt. no. 4) is accepted and adopted. Plaintiff's
 19 IFP application (dkt. no. 1) is granted.

20 It is further ordered that the Clerk shall file the Complaint (dkt. 1-1).

21 It is further ordered that the Complaint is dismissed with prejudice. Dismissal of
 22 the Complaint does not bar Plaintiff from filing a new action for review of the
 23 Commissioner of Social Security's final decision on Plaintiff's application for benefits to
 24 the SSA after he receives a decision and has exhausted his administrative remedies.

25 DATED THIS 19th day of May 2015.



MIRANDA M. DU
UNITED STATES DISTRICT JUDGE